



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

Januray 10, 1992

Ms. Lillian Guillen Graham  
City Attorney  
City of Rosenberg  
P. O. Box 32  
Rosenberg, Texas 77471-0032

OR92-15

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14324.

You have received a request for the personnel file of a former employee of the City of Rosenberg Police Department. In addition, the requestor seeks any and all evaluations of the former employee performed during his three year tenure, copies of certain tape-recorded statements, and a copy of a certain offense report prepared by the former employee. You advise us that the complete personnel file, the tape-recorded statements, and the first page of the offense report have been made available to the requestor. You claim that the remainder of the offense report is excepted from required public disclosure by sections 3(a)(3) and 3(a)(8) of the Open Records Act.

Section 3(a)(8) excepts

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, section 3(a)(8) may be invoked by any proper custodian of information which relates to the incident. Open Records Decision Nos. 474 (1987) at 4; 372 (1983) at 4. Information relating to pending prosecutions and investigations may be withheld under section 3(a)(8).

You advise us that a criminal investigation is pending regarding allegations against the former employee for tampering with the offense report. Because an investigation is pending and the offense report is related to the investigation, we conclude that the portion of the requested offense report not released to the requestor may be withheld from required public disclosure under section 3(a)(8) of the Open Records Act. As we resolve this matter under section 3(a)(8), we need not address the applicability of section 3(a)(3) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-15.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/GK/lcd

Ref.: ID# 14324  
ID# 14360

cc: Mr. Steve Nelson  
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